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Honorable Chief Justice Tani Cantil-Sakauye
and Honorable Associate Justices
California Supreme Court
350 McAllister Street
San Francisco, CA 94102

Re: ***Legislature of the State of California v. Weber***
California Supreme Court Case No. S262530
Amici Curiae Letter in Support of Emergency Motion of California Citizens
Redistricting Commission to Clarify and/or Modify Writ of Mandate

Dear Honorable Chief Justice Cantil-Sakauye and Honorable Associate Justices:

Under Rule 8.500(g) of the California Rules of Court, we write in support of the Emergency Motion of California Redistricting Commission to Clarify and/or Modify Writ of Mandate in this case, on behalf of the following redistricting reform proponents and civic engagement organizations: California Common Cause, the League of Women Voters California, Former Governor Arnold Schwarzenegger, Advancement Project California, Asian Americans Advancing Justice–Asian Law Caucus, Asian Americans Advancing Justice–Los Angeles, and the National Association of Latino Elected and Appointed Officials Educational Fund.

Interests of Amici

Amici are nonprofit, nonpartisan grassroots organizations and a former California Governor committed to the core values of democracy, with extensive experience reforming and engaging the public in redistricting efforts. Amici are well-positioned to aid the Court in understanding the practical impact census delays will have on the final crucial steps of California’s citizen-led redistricting process.

Common Cause Education Fund (“Common Cause”) is a nonprofit, nonpartisan organization dedicated to ensuring open, accountable, and effective government.

Common Cause works to strengthen public participation in the political process and to ensure that process serves the public interest. California Common Cause, the organization's state chapter in California, led efforts to reform California's state redistricting process, helping to draft Proposition 11 and ultimately serving as a lead proponent of its adoption. Proposition 11 created the Citizens Redistricting Commission ("the Commission") to provide rules-based transparency and independence in the redistricting process. In the years after Proposition 11's passage, Common Cause continued its redistricting reform work by endorsing and devoting resources to the passage of Proposition 20, which expanded the Commission's responsibilities and added procedures to ensure that communities of interest are given sufficient opportunities to participate in the redistricting process. During the 2011 and 2021 redistricting cycles, Common Cause has monitored the Commission's work and educated the public on how it may directly participate in California's redistricting process.

The League of Women Voters of California ("the League") is a nonprofit, nonpartisan organization that encourages, through education and advocacy, informed and active participation in the democratic process. The League is deeply involved in reforming California's redistricting process—it was a key member of the coalition that developed the framework for Proposition 11; it helped draft the Proposition's language and signed the ballot arguments supporting it; after passage, it provided input on the Proposition's implementing regulations. More recently, the League and its education arm organized outreach efforts to the public about the Commission, encouraged individuals to apply to become Commissioners, and provided recommendations to the Commission about how to honor and to implement the intent of Propositions 11 and 20—a fair, transparent, and inclusive redistricting process.

Arnold Schwarzenegger served as California's Governor from 2003 to 2011. While Governor, he successfully advocated for Propositions 11 and 20. Those initiatives remade California's redistricting process and ended decades of partisan gerrymandering of state legislative and congressional seats to the benefit of California's political system. Following his term in office, the former Governor launched the Schwarzenegger Institute at the University of Southern California, where he continues to advocate for redistricting reform, among other issues. In the wake of the unprecedented census delays caused by the COVID-19 pandemic, Governor Schwarzenegger remains committed to ensuring that California's redistricting process allows for meaningful public participation at each stage of the process.

Advancement Project California ("Advancement Project") is a multi-racial, multi-generational racial justice organization well versed in research, advocacy, policy, and organizing. It collects, analyzes, and visualizes data on issues affecting low-income

communities of color, and develops policy that benefits Californians harmed by racial inequities. Alongside community partners, Advancement Project builds power for residents to transform public systems. In 2020, as part of these efforts, Advancement Project convened the Integrated Voter Engagement (“IVE”) Redistricting Alliance, a coalition of twenty statewide and regional networks of community-based organizations.¹ The IVE Redistricting Alliance aims to empower low-income, Black, Indigenous, and people of color residents across California to participate in the 2021 redistricting cycle, and to ensure that all parts of the process are as inclusive, accessible, and equitable as possible.

Asian Americans Advancing Justice–Asian Law Caucus (“Advancing Justice–ALC”) and Asian Americans Advancing Justice–Los Angeles (“Advancing Justice–LA”) are the two California affiliates of a national Asian Americans Advancing Justice affiliation that promotes and advances the civil, legal, and human rights of Asian Pacific Americans and other underserved communities. Advancing Justice–ALC strives to create informed and educated communities empowered to assert their rights and participate actively in American society, and helps set local and state policies on voting rights, language access, and redistricting. Advancing Justice–LA serves more than 15,000 individuals and organizations in California, and advocates for full and fair representation at all levels of the political process. During the 2011 redistricting cycle, Advancing Justice–ALC and Advancing Justice–LA engaged and educated communities across California to ensure the public’s ability to meaningfully participate in all stages of the redistricting process. For the 2021 cycle, the organizations are leading the AAPI & AMEMSA State Redistricting Collaborative, a group that includes partners working closely with Asian American, Pacific Islander, Arab, Middle Eastern, and Muslim communities.² To date, the Collaborative has conducted over thirty redistricting

¹ The following groups are current members of the IVE Redistricting Alliance: AAPIs for Civic Empowerment Education Fund; Advancement Project California; Alliance San Diego; Asian Americans Advancing Justice–Asian Law Caucus; Bay Rising; California Black Census and Redistricting Hub; California Calls; California League of Conservation Voters Education Fund; California Native Vote Project; Central Coast Alliance United for a Sustainable Economy (CAUSE); Coalition for Humane Immigrant Rights (CHIRLA); Council on American-Islamic Relations–California (CAIR-CA); Dolores Huerta Foundation; Equality California; Inland Empire United; Mi Familia Vota Education Fund; Orange County Civic Engagement Table (OCCET); People’s Bloc of Los Angeles County; PICO CA; Power California.

² The following groups are current members of the AAPI & AMEMSA State Redistricting Collaborative: CAIR Sacramento Valley/Central California and SF Bay Area; Hmong Innovating Politics; Jakara Movement; AAPIs for Civic Empowerment; Asian Law Alliance; Orange County Civic Engagement Table; Asian Pacific Policy & Planning Council; Asian

workshops to raise awareness, develop mapping priorities, encourage community members to advocate for their communities of interest before the Commission, and prepare communities to analyze and respond to the Commission’s draft and final maps.

Established in 1981, the National Association of Latino Elected and Appointed Officials (“NALEO”) Educational Fund is the leading nonpartisan, nonprofit national organization that facilitates full Latino participation in the American political process, from citizenship to public service. For several decades, NALEO Educational Fund has promoted policies for fair redistricting that is conducted by entities that represent the full diversity of the jurisdictions where the redistricting occurs, complies with the U.S. Constitution and the federal Voting Rights Act, and provides the public with a meaningful opportunity to provide input during the redistricting process. During the 2011 redistricting cycle, NALEO Educational Fund carried out a comprehensive program of advocacy and community mobilization within California’s Latino community, both for the redistricting conducted by the California Citizens Redistricting Commission, and the redistricting of Los Angeles Unified School District. For the 2021 redistricting cycle, the organization is carrying out a similar mobilization program, including educating Latino community members about the importance of redistricting, helping community members develop their communities of interest, and educating community members about how to submit their communities of interest to the Commission. NALEO Educational Fund is providing one-on-one technical assistance for community members in preparing and delivering testimony to the Commission. To date, the organization has conducted workshops and provided technical assistance to community members in at least six California regions. The organization is preparing to conduct additional workshops and activities to support community members in analyzing the Commission’s draft and final maps and in advocating for their communities of interest as the line-drawing process moves forward. In addition to community mobilization redistricting work, for several decades, NALEO Educational Fund has conducted nonpartisan voter engagement activities, community activities to assist eligible lawful permanent residents with the naturalization application process, and mobilization work to promote Latino participation in the decennial censuses. Through its civic engagement work, the organization has acquired extensive knowledge about the impact that the timing and scope of community mobilization efforts have on Latino participation.

Collectively, amici have dedicated years to reforming and engaging underrepresented communities in California’s redistricting process—and continue to work to ensure that it remains inclusive and transparent. Given these efforts, amici are

Solidarity Collective; Empowering Pacific Islander Communities.

particularly well positioned to describe the problems likely to arise if the final period for public participation in the redistricting process falls during the winter holiday season.

Why the Court Should Grant the Emergency Motion

I. The legitimacy of California’s independent redistricting process depends on meaningful public participation.

The People of California amended the California Constitution to replace partisan gerrymandering with an independent, nonpartisan redistricting process responsive to the interests of regular Californians. Proposition 11 empowered the Citizens Redistricting Commission—through inclusive and transparent processes—to “draw districts based on strict, nonpartisan rules designed to ensure fair representation.” (See Prop. 11, Findings and Purpose, as approved by voters, Gen. Elec. (Nov. 4, 2008).) Proposition 11 aimed to ensure that debates over state legislative maps occur “in the open with public meetings” and that “every aspect of this [redistricting] process will be open to scrutiny by the public and the press.” (See Prop. 11, Findings and Purpose, as approved by voters, Gen. Elec. (Nov. 4, 2008).) Proposition 20 then expanded the Commission’s responsibilities to include congressional redistricting. (See Prop. 20, Findings and Purpose, as approved by voters, Gen. Elec. (Nov. 2, 2010).)

Following voter approval of redistricting reform, the California Constitution now mandates “an open and transparent process enabling full public consideration of and comment on the drawing of district lines.” (Cal. Const. art. XXI § 2(b)(1).) Commission members are bound to “apply this article in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process.” (Cal. Const. art. XXI, § 2(c)(6).) The Constitution also outlines the redistricting criteria the Commission is required to apply, including respect for communities of interest, defined as any “contiguous population which shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation.” (Cal. Const. art. XXI, § 2(d)(4).)

Consistent with these values, California law requires the Commission to put California residents at the center of the redistricting process. For example, the Commission must display maps “in a manner designed to achieve the widest public access reasonably possible.” (Gov. Code, § 8253(a)(7).) The Commission also must “establish and implement an open hearing process for public input and deliberation that shall be subject to public notice and promoted through a thorough outreach program to solicit broad public participation in the redistricting public review process.” (*Ibid.*) As part of that public process, the Commission must hold hearings “to receive public input before the commission draws any maps and hearings following the drawing and display

of any commission maps.” (*Ibid.*) And “hearings shall be supplemented with other activities as appropriate to further increase opportunities for the public to observe and participate in the review process.” (*Ibid.*)

This Court has recognized that the constitutional and statutory framework created by Propositions 11 and 20 reflect “a policy judgment that the public should have the opportunity to be involved throughout the redistricting process.” (*Legislature v. Padilla* (2020) 9 Cal. 5th 867, 877.) The prior redistricting cycle showed the centrality of public participation. Before even issuing draft maps, the Commission held 23 public input hearings. (*See Vandermost v. Bowen* (2012) 53 Cal. 4th 421, 446.) And after a five-day public review period, the Commission “held 11 more public input hearings around the state to collect reactions to and comments concerning those draft maps.” (*Ibid.*) Overall, during the 2011 redistricting cycle, “the Commission held more than 70 business meetings and 34 public hearings in 32 cities throughout the state.” (*Ibid.* at 438.) The Commission received oral comments from more than 2,700 speakers at hearings and collected written submissions from more than 2,000 organizations and more than 20,000 individuals. (Raphael J. Sonenshein, *When the People Draw the Lines: An Examination of the California Citizens Redistricting Commission* (June 12, 2013), pp. 40–41, <https://cavotes.org/sites/default/files/jobs/RedistrictingCommission%20Report6122013.pdf>.) These efforts are fundamental to the legitimacy of California’s redistricting process, particularly as the Commission makes changes before adopting maps.

In 2011, public engagement increased steadily as the redistricting process progressed. And as explained below, much of the public engagement critical to the success of the last redistricting cycle occurred in the months after the federal government provided census data to the Commission.

II. After further federal delays, a crucial period for public participation will fall during the holiday season, making it harder for members of communities of interest to engage in the redistricting process.

The December 15th deadline set by this Court in *Padilla* would have allowed a substantial period for public participation in the redistricting process before the start of the winter holiday season. Now, with more time added to the redistricting deadlines under the *Padilla* procedures, the window for public participation has slipped into the heart of the winter holidays—November 19, 2021 to January 3, 2022, according to the Commission. When this Court set a general procedure for calculating new redistricting deadlines in the event of “additional federal delay,” no one intended for the final two weeks of the redistricting process and the map adoption deadline to fall squarely in the winter holiday season—a time when government offices, schools, and many businesses are closed, and most Californians are enjoying time with family.

This schedule change will upend the redistricting process and threatens to undermine the intent of Propositions 11 and 20. At worst, if public participation in the redistricting process is significantly depressed and the Commission is forced to finalize maps without robust public review and input, California slides back towards the era of behind-closed-door line-drawing that Propositions 11 and 20 sought to end. At best, it could give an unfair advantage to interest groups or partisan interests with the resources to participate no matter the time of year. In either scenario, the public would be sidelined at a critical stage of the process, undermining the Commission’s ability to incorporate communities of interest input into its final maps and damaging the public’s confidence in the integrity of the redistricting process.

From their experiences during the 2011 redistricting cycle, amici are familiar with the intensive work needed to facilitate public participation in the final stages of the map-drawing process. Although the Commission, amici, and other groups across the state are working diligently to engage communities in the process leading up to the Commission’s posting of its first draft maps, many affected individuals and communities do not fully engage in the process until the Commission releases its first draft maps with concrete boundary proposals. (Raphael J. Sonenshein, *When the People Draw the Lines: An Examination of the California Citizens Redistricting Commission* (June 12, 2013), p. 37, <https://cavotes.org/sites/default/files/jobs/RedistrictingCommission%20Report6122013.pdf>. [“No matter how many opportunities people have to speak at public meetings, or how many draft maps people or groups transmit to a commission, nothing generates real public input more than a concrete proposal.”].) The last steps of the redistricting process—when the Commission drafts and finalizes maps based on state-adjusted redistricting data—are therefore of heightened importance for securing public participation. During that final critical mapping period, amici work in a variety of time-intensive ways to encourage and support public engagement, all of which would be difficult to execute during the holiday season.

First, some amici closely analyze the Commission’s draft maps, examining issues such as Voting Rights Act compliance and treatment of specific communities of interest. Because some amici groups possess greater resources for analyzing maps than their partner organizations, the analysis conducted by amici groups plays a crucial role in ensuring that the redistricting process is transparent for all Californians—not just those well-versed in mapping procedures. If the Commission’s final deadline falls at the end of December or beginning of January, this analysis stage will fall over the Thanksgiving holiday, when many will be traveling or away from work. Even if amici staff work through the week of Thanksgiving on their analysis, many of their partner organizations and the communities they serve will not be available to review the results until the first week of December. Delay in communities’ access to map analysis will limit the time those communities have to act on that analysis in the redistricting process.

Second, some amici engage in outreach to educate impacted communities about the draft maps and encourage them to provide feedback. The outreach stage is crucial to ensuring that communities of interest understand how the proposed maps will affect them and what options are available to shape the final maps. This stage also involves working collaboratively to resolve potential conflicts among communities of interest. During this time-consuming process, amici often hold series of small-group sessions among communities to reach consensus, which bolsters the legitimacy of the Commission's maps across different communities. Under the current deadlines, the bulk of this outreach period will fall in early to mid-December. While the Court's original deadlines would have allowed a comfortable period before Thanksgiving for a sustained period of outreach, the new deadlines under a strict application of the *Padilla* procedures will compress amici's outreach entirely into the post-Thanksgiving period.

Third, some amici may prepare their own draft maps and provide testimony to the Commission. If critical phases of the Commission's process fall during the holiday season, this work will take place when amici expect many offices will be closed or sporadically staffed—limiting their ability to participate fully in the process. And even if amici groups work through the holidays on these matters, some amici will have a harder time getting feedback from the communities they serve.

Fourth, some amici may need to educate and mobilize community members around any live line-drawing that could occur during the final days of the process. At the end of the 2011 redistricting cycle, some amici and community members participated in live line-drawing sessions held by the Commission as it made final edits to the maps. The Commission livestreamed these sessions to the public, and some amici monitored and participated in these sessions in the final days before the approval and certification deadline. Given federal delays, any similar live line-drawing sessions for this cycle likely would fall during the Christmas or New Year holidays or the week between them, when public engagement would range from depressed to virtually nonexistent.

On a blank slate, no one would schedule the final stage of the redistricting process during the winter holiday season. That said, amici recognize that these dates are not set on an empty calendar, and that the 2022 election cycle's approaching deadlines limit how far any redistricting deadlines may be extended. Although the Court cannot move the relevant period clear of the winter holiday season altogether, it can still provide some relief to amici and all Californians seeking to participate in the redistricting process.

Extending the final approval and certification deadline to account for the winter holiday season will allow for more analysis, outreach, and public engagement in the final stage of the mapping process, and will ensure that the Commission receives robust public input and review, as Propositions 11 and 20 intended. Amici recognize that extending

the time for map-drawing until later in January will reduce the time candidates have to prepare for the next elections held according to those maps. But given the decade-long effects of redistricting and the fundamental importance of public participation in the process, the tradeoff is justified. The Court should modify the *Padilla* writ of mandate to extend the Commission's deadline for certifying the final redistricting maps beyond the winter holiday season, as requested by the Commission.

III. Concluding the redistricting process during the height of the holiday season will make it harder for historically disenfranchised communities to participate in the redistricting process.

The winter holiday season will make it tougher for all Californians to participate in the redistricting process, and historically disenfranchised communities will feel these challenges most acutely. The holidays are the only time some lower-income Californians can take off work, spend unencumbered time with their children, or visit family across the country or abroad. Even for those able to dedicate time to the redistricting process during this busy period, organizing over the holidays is filled with logistical challenges, such as the closure of typical meeting places like schools and community centers. Without further scheduling relief from this Court, amici fear that these compounding issues will raise insurmountable barriers to participating for typically disenfranchised communities.

The winter holiday season also will frustrate amici's ability to assist typically disenfranchised communities. During the last redistricting cycle, amici observed the powerful effect coalition building among those communities can have on the map-drawing process. These unified mapping efforts are significant logistical undertakings regardless of the time of year and often require around-the-clock work to meet tight deadlines for draft maps. The important and ongoing dialog needed to provide feedback on the Commission's draft maps may become untenable during the busy core of the winter holiday season. At the end of the year, it can be difficult to get feedback from grassroots organizations closed for the holidays or from community members spending time with family or caring for children when schools are closed.

Ultimately, California reformed its redistricting process to ensure that map-drawing is no longer the exclusive domain of political insiders and entrenched interests. The 2011 and 2021 Commissions have both embraced their mission with dedication and an earnest approach. But an open and inclusive system takes effort from the public and work by amici, their partner organizations, and many others, which may be frustrated by the redistricting timeline. Robust public participation is one of the hallmarks of the citizen-controlled redistricting process, and the Court should take the steps necessary to "preserve the intended operation of the statutory framework." (*Padilla*, 9 Cal. 5th at p.

875.) The Commission's requested relief provides the least invasive means of addressing the unprecedented census delays while vindicating the core values of the redistricting process. The Court should modify the *Padilla* writ of mandate to extend the Commission's deadline for certifying the final redistricting maps until at least January 14, 2022, as requested by the Commission.

Respectfully submitted,

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